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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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7590 05/16/2003

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EXAMINER

STEVENS, ROBERTA A

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 05/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/405,821	GUBBI, RA
	Examiner Roberta A Stevens	Art Unit 2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 06 March 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 6-9 and 13-29 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 6-9,13-19,21,22,24,26 and 27 is/are rejected.

7) Claim(s) 20, 23, 25, 28 and 29 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) Interview Summary (PTO-413) Paper No(s) _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Tobagi (U.S. 5446735).

3. Tobagi teaches (abstract, columns 9-13 and figure 4) a method comprising maintaining a clear channel assessment that takes into account a first device's designated transmission time slot within a communication channel with respect to those of other network devices in order to determine idle times that exist after completion of all regularly scheduled transmission within the communication channel.

4. Claims 13-19, 21, 22, 24, 26 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Tobagi.

5. Tobagi (abstract and figure 4) a method comprising allocating for each of a number of clients of a computer network, a designated transmission time slot within each network frame period of a communication channel, establishing a common clear channel waiting time to be used by each of the clients, upon detecting an idle time at an end of a network frame period clients having data to transmit sharing the idle time for transmissions of data according to a sharing plan that takes into account the common clear channel waiting time.

Allowable Subject Matter

6. Claims 20, 23, 25, 28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicants Disclosure. Vook (U.S. 5513210), Yung (U.S. 5870388), Kaplan (U.S. 6111862) and Gardner (U.S. 5819182) are cited to show the state of the art.

8. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Roberta Stevens whose telephone number is (703) 308-6607. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:30 p.m.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor can be reached on (703) 308-6602.

10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-4700.

11. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks, Washington, D.C. 20231

Art Unit: 2665

or faxed to: (703) 872-9314

For informal draft communications, please label "PROPOSED" or "DRAFT"

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA. Sixth Floor (Receptionist).

Robert A. Stevens

Patent Examiner

05-13-03



ALPUS H. HSU
PRIMARY EXAMINER